

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

OCT 28 2003

PATRICK FISHER
Clerk

ALBERTO AVILA-VILLANUEVA,

Petitioner,

v.

JOHN ASHCROFT, Attorney General;
TOM RIDGE, Secretary, Dept. of
Homeland Security; BUREAU OF
CUSTOM & IMMIGRATION
ENFORCEMENT,

Respondents.

No. 03-9593
(BIA No. A 78-903-699)
(Petition for Review)

ORDER AND JUDGMENT*

Before **EBEL, HENRY**, and **MURPHY**, Circuit Judges.

Petitioner Alberto Avila-Villanueva seeks review under 8 U.S.C. § 1252 of a Notice of Intent to Issue a Final Administrative Removal Order issued by the Bureau of Custom and Immigration Enforcement (BICE) on September 19, 2003. Petitioner also seeks a stay of removal pending our review of his petition.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Respondent John Ashcroft contends that we have no jurisdiction over the petition for review because the agency has not yet issued a final order of removal.

By statute, we have jurisdiction to review final orders of removal, with some limitations. *See* 8 U.S.C. § 1252(a). By its very terms, however, the Notice that was issued to petitioner on September 19 is not a final order of removal. We, therefore, have no jurisdiction to review it. Likewise, there is no basis for our granting petitioner a stay of removal in the absence of a final order of removal.

Accordingly, the petition for review is DISMISSED for lack of jurisdiction and the motion for stay of removal is DENIED.

ENTERED FOR THE COURT
PER CURIAM